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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-204260 DATE: August 24, 1981

MATTER OF: Gupta Carpet Professionals, Inc.

DIGEST:

1. Submission of below-cost bid is not proper basis to challenge validity of contract award.
2. Protest concerning responsiveness of bid is academic and will not be considered where contract was awarded to another firm.

Gupta Carpet Professionals, Inc. (Gupta) protests that the low bidder under Army invitation for bids (IFB) No. DADA1581-B-0073 submitted a below-cost bid. Gupta also protests that another bidder should be disqualified for failure to acknowledge all the IFB amendments. We dismiss the protest.

The submission of a below-cost bid is not, in itself, a proper basis to challenge the validity of a contract award. American Mutual Protective Bureau, B-200570, October 22, 1980, 80-2 CPD 311. Acceptance of the bid will bind the awardee to perform at the price offered in the bid, and the fact that it may incur a loss at the bid price thus does not justify the rejection of an otherwise acceptable bid. See American Mutual Protective Bureau, supra. In this regard, Defense Acquisition Regulation (DAR) § 1-311 (1976 ed.) cautions that where a below-cost bid is suspected, a contracting officer should assure that amounts excluded from the contract price are not recovered in the pricing of change orders, or in follow-on procurements.

Gupta's allegation that the awardee's bid is unreasonably low really raises a question of the bidder's responsibility, i.e., its ability to perform the contract at the bid price. The Army informally advises that the contract was awarded to the low bidder. Before

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awarding the contract, the Army was required to determine the awardee responsible. DAR § 2-407.2. This Office will not review a protest against such a determination unless the protester shows either fraud on the part of procuring officials or that the solicitation contained definitive responsibility criteria which were not applied. Ward Smith Transfer and Storage Company, Inc., B-196970, December 14, 1979, 79-2 CPD 409.

Gupta's other ground of protest is that another bid should be rejected as nonresponsive for failure to acknowledge all amendments. Since the contract was not awarded to that firm, the issue is academic and will not be considered. See American Marine Decking Systems, Inc., B-197987, September 22, 1980, 80-2 CPD 217.

The protest is dismissed.

F. H. Barclay, Jr.
For Harry R. Van Cleve
Acting General Counsel